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REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicant asserts that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Claims

Claims 1-4 are pending in the application. Claims 1-4 have been rejected. Claim 1 has been amended.

Applicant respectfully asserts that the amendments to claim 1 add no new matter. Support for the amendment of claim 1 may be found, inter alia, in page 6, lines 23 – 27 of the description and in Figs. 2 and 5, referring to part 14 “first bimetal device” and the parts contained in it, such as 16, 22, 24, 30 and 32.

CLAIM REJECTIONS

35 U.S.C. § 102 Rejections

In the Office Action, the Examiner rejected claims 1-4 under 35 U.S.C. § 102(b), as being anticipated by Phillips et al. (US 4,539,468; the ‘468 patent). Applicant respectfully traverses this rejection in view of the remarks that follow.

The ‘468 patent discloses an arrangement of primary bimetal 31 and secondary bimetal 32 which are disposed outside of the water vessel, as may clearly be seen in Fig. 2, where the element head 53 is the part of the device of the ‘468 patent that may be used to indicate the border line between the “wet side” of the device (from element head 53 towards electric heating element 54) and the “dry side” (from element head 53 to the opposite direction). The ‘468 patent does not teach or suggest, and the Examiner does not suggest that

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the '468 patent teach or suggest "wherein said thermostat is insertable into said water in said boiler for directly immersing in said water or for insertion into a tube immersed in said water", as recited in amended independent claim 1. As is clearly evident from the '468 patent, inter alia from Figs. 1 and 2 and the corresponding description, not only the two pairs of bimetal (31, 32) may not be immersed in the water of the vessel, it would have not been practical to change the construction of the vessel of the '468 patent so as to allow for inserting these parts in the water, either directly immersed in the water or indirectly inserted in a tube. For a reference to anticipate a claim, the reference must teach all elements of the claim. Therefore, the '468 patent cannot anticipate claim 1.

Accordingly, Applicant respectfully asserts that amended independent claim 1 is allowable. Claims 2-4 depend from, directly or indirectly, claim 1, and therefore include all the limitations of this claim. Therefore, Applicant respectfully asserts that claims 2-4 are likewise allowable. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections to amended independent claim 1 and to claims 2-4 dependent thereon.

35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claims 3-4 under 35 U.S.C. § 103(a), as being unpatentable over the '468 patent.

Applicant respectfully traverse the rejection of claims 3-4 under 35 U.S.C. § 103(a) in view of the '468 patent because a prima facie case of obviousness has not been established.

An obviousness rejection requires a teaching or a suggestion by the relied upon prior art of all the elements of a claim (M.P.E.P. §2142). Since the '468 patent does not teach or suggest all the elements of independent claim 1, as amended, and since rejected dependent claims 3 and 4 include all the elements of claim 1, the Examiner fails to establish a prima facie showing that the '468 patent teaches or suggests every feature of claims 3-4. Accordingly, applicant respectfully request that the rejection of claims 3-4 under 35 U.S.C. § 103(a) be withdrawn.

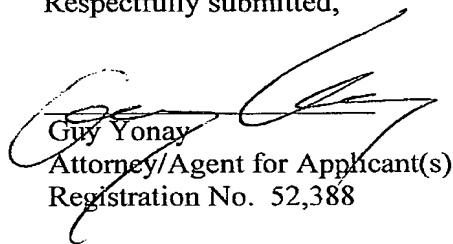
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In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,


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